

REMARKS

In the Office Action the Examiner rejected claims 6-18 and 20-22 under 35 U.S.C. 101 as being directed to non-statutory subject matter. Claims 6-18 and 20-22 remain in the application.

Independent claims 6 is a method claim, and independent claim 16 is an apparatus claim. Claim 16 has a counter, a comparator, a register means, a storage means, incremental means, and summing means. Thus claim 16 has a counter, a comparator, and four means plus function elements. Means plus function is specifically authorized as a way to claim an apparatus element by 35 U.S.C. 112, sixth paragraph. Simply stated, there is nothing to suggest this qualifies as an algorithm claim. Certainly there is no disputing that taking a square root and performing division are a mathematical operations, but that is not automatically mean that it is an algorithm. Probably any circuit can be characterized mathematically. Amplifiers and filters are obvious examples. Even the operation of an individual transistor can be represented mathematically. The Examiner appears to have assumed that a circuit that performs a mathematical operation is automatically considered an algorithm and therefore, in order to be patentable, must comply with certain criteria applicable to algorithms in order to qualify as patentable subject matter. The fact remains, however, that claim 16 has only circuit elements in it and the manner of including the function of four of those elements is specifically authorized by statute; 35 U.S.C. 112, sixth paragraph. This cannot be characterized simply as a claim to an algorithm executed by a computer. To conclude that a circuit operation that can be characterized mathematically is unpatentable would raise a question as to the patentability of all circuit patents. Accordingly, applicants submit that claim 16 is not an algorithm; it is a circuit.

Although claim 6 is not as clear as claim 16 in some regards because some of the steps don't specifically recite hardware, some of the steps are clear that this not simply an algorithm. The first step includes storing in a register. This is not an algorithm step. The first step of comparing include removing a result from the first register as well as storing in the first and second registers. Three actions involving two different registers cannot be considered an algorithm. Further, the second step of comparing also includes removing from the first register and storing in the first and

second registers. Thus, similar to claim 16, applicants submit that claim 6 is not an algorithm claim.

The Office Action contains numerous statements characterizing the claims, the Specification, and the prior art. Regardless of whether such statements are addressed by Applicant, Applicant refuses to subscribe to any of these statements, unless expressly indicated by Applicant. No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Applicants believe the application is in condition for allowance which action is respectfully solicited. Please contact the below-signed if there are any issues regarding this communication or otherwise concerning the current application.

If Applicant has overlooked any additional fees, or if any overpayment has been made, the Commissioner is hereby authorized to credit or debit Deposit Account 503079, Freescale Semiconductor, Inc.

Respectfully submitted,

SEND CORRESPONDENCE TO:

Freescale Semiconductor, Inc.
Law Department

Customer Number: 23125

By: James L Clingan Jr
CLINGAN JR., JAMES L
Attorney of Record
Reg. No.: 30,163
Telephone: (512) 996-6839
Fax No.: (512) 996-6854